

§ 49.134 Rule for forestry and silvicultural burning permits.

(a) *What is the purpose of this section?* This section establishes a permitting program for forestry and silvicultural burning within the Indian reservation to control emissions of particulate matter and other noxious fumes to the atmosphere and ground-level concentrations of particulate matter.

(b) *Who is affected by this section?* This section applies to any person who conducts forestry or silvicultural burning.

(c) *What are the requirements for forestry and silvicultural burning?* (1) A person must apply for a permit to conduct a forestry or silvicultural burn, obtain approval of the permit on the day of the burn, have the permit available on-site during the burn, and conduct the burn in accordance with the terms and conditions of the permit.

(2) The date after which a person must apply for and obtain approval of a permit under this section is identified in the implementation plan in subpart M of this part for the specific reservation where this section applies.

(3) A person must comply with § 49.131 General rule for open burning or the EPA-approved Tribal open burning rule, as applicable.

(4) Nothing in this section exempts or excuses any person from complying with any applicable laws and ordinances of local fire departments or other governmental jurisdictions.

(d) *Are there additional requirements that must be met?* (1) A person subject to this section must submit an application to the Regional Administrator for each proposed forestry or silvicultural burn. An application must contain, at a minimum, the following information:

(i) Street address of the property upon which the proposed forestry or silvicultural burning will occur or, if there is no street address of the property, the legal description of the property.

(ii) Name, mailing address, and telephone number of the person who will be responsible for conducting the proposed forestry or silvicultural burning.

(iii) A plot plan showing the location of the proposed forestry or silvicultural burning in relation to the property lines and indicating the distances and directions of the nearest residential,

public, and commercial properties, roads, and other areas that could be affected by the burning.

(iv) The type and quantity of forestry or silvicultural residues proposed to be burned, including the estimated weight of material to be burned and the area over which burning will be conducted.

(v) A description of the burning method(s) to be used (pile burn, broadcast burn, windrow burn, understory burn, etc.) and the amount of material to be burned with each method.

(vi) A description of the measures that will be taken to prevent escaped burns, including but not limited to the availability of water and firebreaks.

(vii) The requested date(s) that the proposed forestry or silvicultural burning would be conducted.

(viii) Any other information specifically requested by the Regional Administrator.

(2) If the proposed forestry or silvicultural burning is consistent with this section and § 49.131 General rule for open burning, or the EPA-approved Tribal open burning rule, the Regional Administrator may approve the forestry or silvicultural burning permit and authorize burning on the day burning is to be conducted after taking into consideration relevant factors including, but not limited to:

(i) The size, duration, and location of the proposed burn, the current and projected air quality conditions, the forecasted meteorological conditions, and other scheduled burning activities in the surrounding area; and

(ii) Other factors indicating whether or not the proposed forestry or silvicultural burning can be conducted without causing an adverse impact on air quality.

(3) The Regional Administrator, to the extent practical, will consult with and coordinate approvals to burn with the open burning programs of surrounding jurisdictions.

(e) *Definitions of terms used in this section.* The following terms that are used in this section are defined in § 49.123 General provisions: Air pollutant, ambient air, emission, forestry or silvicultural burning, open burning, particulate matter, PM₁₀, PM_{2.5}, Regional Administrator, stack, and uncombined water.